
UTAH LABOR COMMISSION

JEFF C. JENSEN,

Petitioner,

vs.

SALT LAKE CITY CORPORATION,

Respondent.

**ORDER AFFIRMING
ALJ'S DECISION**

Case Nos. 03-0109 and 03-0273

Jeff C. Jensen asks the Utah Labor Commission to review Administrative Law Judge La Jeunesse's denial of Mr. Jensen's claim for benefits under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Annotated).

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Annotated §63-46b-12 and §34A-2-801(3).

BACKGROUND AND ISSUE PRESENTED

Mr. Jensen filed a claim for workers' compensation benefits against Salt Lake City Corporation ("Salt Lake") for a left knee injury allegedly caused by a work accident on May 14, 2001, when he slipped and fell, or from a second work accident on October 20, 2002, as he descended a flight of stairs.

Judge La Jeunesse held an evidentiary hearing on Mr. Jensen's claim and then referred the medical aspects of the claim to an impartial medical panel. On June 30, 2005, after receiving the panel's report, Judge La Jeunesse issued his decision. In summary, Judge La Jeunesse determined that Mr. Jensen suffered from osteoarthritis and a bone spur in his left knee that was unrelated to his work for Salt Lake. Mr. Jensen's slip and fall accident at work on May 14, 2001, had no effect on this preexisting condition. However, while Mr. Jensen was descending a flight of stairs at work on October 20, 2002, the bone spur fractured. Mr. Jensen heard a "crunch" and "pop" in his left knee, with immediate severe pain and loss of mobility.

In considering whether Mr. Jensen was entitled to workers' compensation benefits for the accident and injury of October 20, 2002, Judge La Jeunesse noted that Mr. Jensen had suffered from preexisting osteoarthritis and bone spurring that contributed to his injury. Judge La Jeunesse therefore concluded that Mr. Jensen's right to benefits was subject to the more stringent of the two tests for legal causation established by the Utah Supreme Court in *Allen v. Labor Commission*, 729 P.2d 15, (Utah 1986). And, in applying that test to the facts of Mr. Jensen's claim, Judge La Jeunesse determined that the work exertion involved at the time of Mr. Jensen's injury—descending a flight of stairs and stepping onto a landing—was not unusual or extraordinary when compared to the exertions commonly encountered in modern non-employment life. Judge La Jeunesse therefore

ORDER AFFIRMING ALJ'S DECISION
JEFF C. JENSEN
PAGE 2

concluded that Mr. Jensen's work was not the legal cause of his injury, that the injury did not arise out of Mr. Jensen's employment, and that the injury was not compensable under Utah's workers' compensation system.

Mr. Jensen challenges Judge La Jeunesse's decision on the grounds that Judge La Jeunesse overlooked the full extent of Mr. Jensen's exertions at work. As a result, Judge La Jeunesse misapplied the test for legal causation and incorrectly denied Mr. Jensen's claim.

FINDINGS OF FACT

Judge La Jeunesse's findings of fact are unchallenged. The Commission therefore adopts those findings, which have been generally summarized above. In addition to the foregoing summary, the Commission notes Judge La Jeunesse's additional finding that, on October 20, 2002, Mr. Jensen had climbed or descended approximately 30 flights of stairs.

DISCUSSION AND CONCLUSION OF LAW

Section 34A-2-401 of the Utah Workers' Compensation Act provides benefits to workers injured by accident "arising out of and in the course of" employment. To qualify for benefits under this standard, an injured worker must establish that his or her work was **both** the "legal cause" and the "medical cause" of the injury in question. Allen v. Industrial Commission at 25. Mr. Jensen has established that his work for Salt Lake medically caused his left knee injury. The only issue in dispute is whether his work is also the legal cause of the injury.

In Price River Coal Co. v. Industrial Commission, 731 P.2d 1079, 1082 (Utah 1986), the Utah Supreme Court described the test for legal causation as follows:

Under Allen, an usual or ordinary exertion, so long as it is an activity connected with the employee's duties, will suffice to show legal cause. However, if the claimant suffers from a pre-existing condition, then he or she must show that the employment activity involved some unusual or extraordinary exertion over and above the "usual wear and tear and exertions of nonemployment life." The requirement of "unusual or extraordinary exertion" is designed to screen out those injuries that result from a personal condition which the worker brings to the job, rather than from exertions required of the employee in the workplace. (Citations omitted.)

Mr. Jensen suffered from a preexisting condition—osteoarthritis and a bone spur—that contributed to the left knee injury on October 20, 2002. He must, therefore, meet the more stringent test for legal causation by showing that his work activities were "unusual or extraordinary" when compared to other typical activities and exertions experienced by men and women in modern nonemployment life. Allen at 26.

Judge La Jeunesse compared Mr. Jensen's exertion immediately preceding the bone spur

ORDER AFFIRMING ALJ'S DECISION
JEFF C. JENSEN
PAGE 3

fracture — stepping from a stair onto a landing — against the typical exertions of modern nonemployment life. Based on that comparison, Judge La Jeunesse concluded Mr. Jensen's exertion was not unusual or extraordinary. However, Mr. Jensen argues that Judge La Jeunesse's focus on only the exertion that immediately preceded the fracture is too narrow. Instead, Mr. Jensen would broaden the focus to include his exertion in climbing or descending 30 flights of stairs in the one or two hours preceding the fracture.

In considering what exertion should be used in judging legal causation in this case, the Commission must determine whether the fracture of the bone spur in Mr. Jensen's left knee was a single discrete incident, or the climax of repetitive exertion over a period of time. The Commission notes that Mr. Jensen performed his work duties on the day in question without any reported problems until the bone spur suddenly fractured with a "crunch" and a "pop." Mr. Jensen then experienced immediate severe pain and loss of mobility. The medical opinions in evidence indicate that the bone spur could have fractured at any time, but coincidentally happened to fracture when Mr. Jensen stepped from the stair to the landing.

In light of the foregoing, the Commission concludes that Mr. Jensen's act of stepping from the stair to the landing is the relevant exertion for evaluating legal causation in this case. The Commission agrees with Judge La Jeunesse that such an exertion is not unusual or extraordinary and, therefore, does not satisfy the requirement of legal causation. Consequently, Mr. Jensen is not entitled to workers' compensation benefits for his left knee injury.

ORDER

The Commission affirms Judge La Jeunesse's decision in this matter. It is so ordered.

Dated this 22nd day of January, 2007.

Sherrie Hayashi
Utah Labor Commissioner